

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

PRISCILLA JORDAN,

Plaintiff,

CASE NO.: 19-
HON.

NO

vs.

HICKORY HOLLOW COOPERATIVE, and
HUNTINGTON MANAGEMENT, LLC, jointly and
Severally.

Defendants.

STEVEN M. GURSTEN (P53632)
JOSHUA R. TEREBELO (P72050)
ALEXANDER P. KEMP (P80963)

Co-Counsel for Plaintiff

MICHIGAN AUTO LAW, P.C.

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COMPLAINT AND DEMAND FOR JURY TRIAL

There is no other pending or resolved civil action arising out of the transaction or occurrence alleged in the complaint.

/S/ Steven M. Gursten

STEVEN M. GURSTEN (P53632)

COMPLAINT AND DEMAND FOR JURY TRIAL

NOW COMES, Plaintiff, PRISCILLA JORDAN (hereinafter “JORDAN”), by and through her attorneys, MICHIGAN AUTO LAW, PC, and hereby brings this lawsuit against the Defendants, and alleges as follows:

JURISDICTION, PARTIES AND VENUE

1. That the amount in controversy exceeds Twenty Five Thousand (\$25,000.00) Dollars.
2. That the Plaintiff, JORDAN, at all times material hereto, was a resident of the City of Wayne, County of Wayne, and State of Michigan. More specifically, Plaintiff was a resident of 32141 Ellen Place, Wayne, MI 48148, County of Wayne (hereinafter the “Subject Residence”).
3. At all times material to this lawsuit, Defendant HICKORY HOLLOW COOPERATIVE (hereinafter “HICKORY HOLLOW”) was a Michigan Corporation duly organized and licensed to do business in Michigan and actively conducting business in Wayne County, Michigan. HICKORY HOLLOW was the owner of the Subject Residence. HICKORY HOLLOW’s registered agent is located at 25480 Telegraph Rd., Ste 100, Southfield, MI 48033.
4. At all times material to this lawsuit, Defendant HICKORY HOLLOW acted through its officers, directors, employees, agents and apparent agents.
5. All negligent acts and omissions of Defendant HICKORY HOLLOW alleged herein were committed by its officers, directors, employees, agents and apparent agents.
6. At all times material to this lawsuit, Defendant Huntington Management L.L.C. (hereinafter “HUNTINGTON”) was a duly organized limited liability corporation and licensed to do business in Michigan and actively conducting business in Wayne County, Michigan.

HUNTINGTON's registered agent address is located at 25480 Telegraph Road, Southfield, MI 48075.

7. At all times material to this lawsuit, Defendant HUNTINGTON acted through its officers, directors, employees, agents and apparent agents.

8. All negligent acts and omissions of Defendant HUNTINGTON alleged herein were committed by its officers, directors, employees, agents and apparent agents.

9. Venue is appropriate within jurisdiction.

GENERAL ALLEGATIONS

10. On and before January 30, 2019 through all dates material hereto, Plaintiff was a resident of the Subject Residence.

11. The Subject Residence was equipped with a boiler connected to a chimney system, the ("Subject Boiler and Chimney System") that malfunctioned, permitting the carbon monoxide rich products of combustion to become part of the breathable air inside of the Subject Residence before and on January 30 and 31, 2019, causing carbon monoxide poisoning, (hereinafter the "Poisoning").

12. Plaintiff was poisoned by the carbon monoxide in the Poisoning.

13. The Plaintiff was poisoned as a direct and proximate result of multiple failures of the Defendants to properly inspect or maintain the Subject Boiler and Chimney System in proper and safe working order.

14. Defendant HUNTINGTON provided maintenance and repair to the Subject Boiler and Chimney System at the Subject Residence on a number of occasions prior to January 30, 2019.

15. Defendant HICKORY HOLLOW provided maintenance and repair to the Subject Boiler and Chimney System at the Subject Residence on a number of occasions prior to January 30, 2019.

16. As a result of the negligence of one, more, or all of the Defendants, Plaintiff was exposed to carbon monoxide at levels that resulted in severe, permanent and irreversible injuries.

17. Carbon monoxide is a molecule that had been present in the atmosphere contained within the Subject Residence at varying levels for an undetermined period of time prior to the occasions identified above and made the subject of this action.

18. As carbon monoxide is colorless, odorless and tasteless, the atmosphere of an enclosed space can be toxic, and even fatal, to unwary humans when its ratio of carbon monoxide molecules to breathable and inert air molecules becomes too high and that toxic level remains undetected or diluted back down to a non-toxic level through adequate or appropriate ventilation.

19. Beginning on or before January 30, 2019, the ratio of carbon monoxide molecules to breathable or inert molecules reached such a level in the atmosphere contained within the premises of the Subject Residence that the atmosphere became toxic to human beings, to include Plaintiff.

20. The toxic or fatal ratio of carbon monoxide molecules to the inert and breathable molecules in the atmosphere contained within the premises of the Subject Residence remained undetected and inadequately ventilated into the Subject Residence, where Plaintiff was residing.

21. Defendant HUNTINGTON did not provide adequate ventilation for the Subject Residence they were managing at all times material to this action.

22. Defendant HICKORY HOLLOW did not provide adequate ventilation for the Subject Residence they owned at all times material to this action.

23. As a direct and proximate result of the carbon monoxide poisoning, Plaintiff is disabled, unable to function normally, progress in her cognitive or psychological function, maturity and socialization, work at their full capacity or earn a living in the future.

COUNT I

NEGLIGENCE AGAINST HICKORY HOLLOW.

24. Plaintiff adopts and realleges Paragraphs 1 through 23, as if fully set forth herein, and further alleges as follows:

25. At all times material to this lawsuit, Defendant HICKORY HOLLOW, as the owner of the subject property, owed a non-delegable duty to the Plaintiff to use reasonable care to maintain the Subject Boiler and Chimney System so that it would operate safely.

26. Defendant HICKORY HOLLOW breached its duty of care to maintain the Subject Boiler and Chimney System in safe condition, including in one or more of the following ways:

- a. Defendant negligently failed to properly or adequately maintain the Subject Boiler and Chimney System, its piping and ventilation system, in safe condition, thereby allowing leaks to develop in the Subject Boiler and Chimney System, its piping, ventilation and/or exhaust system;
- b. Defendant negligently failed to confirm that the Subject Boiler and Chimney System was completely combusting the fuel and air;
- c. Defendant negligently failed to equip and/or ensure that the Subject Residence was equipped with operational carbon monoxide sensing devices;
- d. Defendant negligently failed to conduct and/or adequately ensure that regular inspections were conducted of the Subject Boiler and Chimney System, its piping, the ventilation system, air ducts, vents and/or exhaust system related thereto;

- e. Defendant negligently failed to conduct, and/or properly and adequately conduct and/or ensure that regular inspections were conducted of the Subject Boiler and Chimney System, its piping, the ventilation system and/or exhaust system, air conditioning, air ducts, vents and/or exhaust system to check for leaks and/or improper venting;
- f. Defendant negligently failed to make and/or ensure that any reasonable inspection, testing or maintenance measures were conducted relative to the furnace, its piping, air ducts, vents and/or exhaust system to prevent, check for, identify, repair and/or fix any leaks and/or improper venting;
- g. Defendant negligently failed to repair, properly repair and/or require to be repaired dangerous conditions created by the Subject Boiler and Chimney System at the Subject Residence which were or should have been known to Defendant;
- h. Defendant failed to warn Plaintiff of the presence of carbon monoxide, or the potential dangers associated with exposure to carbon monoxide;
- i. Defendant failed to give Plaintiff any notice about the condition of the Subject Boiler and Chimney System, its piping, air ducts, ventilation system, vents and/or exhaust system in or around the Subject Residence and/or that they had not been properly installed, inspected, serviced and/or maintained;
- j. Defendant negligently failed to comply and/or ensure compliance with applicable codes and regulations as to safety measures regarding the proper installation, maintenance, and/or use of the Subject Boiler and Chimney System, its piping, ventilation system, air ducts, vents and/or exhaust system;
- k. Defendant negligently failed to keep and maintain and/or ensure that the Subject Boiler and Chimney System on the Subject Residence was kept and/or maintained in a reasonably safe condition;
- l. Defendant negligently failed to use and/or ensure that reasonable care was used in maintaining, inspecting and servicing the Subject Boiler and Chimney System, its piping, ventilation system, air ducts, vents and/or exhaust system;
- m. Defendant negligently failed to take and/or ensure that reasonable precautions were taken to protect the Plaintiff from harm;

- n. Defendant negligently failed to provide and/or ensure that adequate protective equipment and/or devices were provided and/or utilized that would prevent injury to the Plaintiff;
- o. Defendant negligently failed to use reasonable care and/or ensure that reasonable care was used in maintaining and providing proper and safe ventilation to the Subject Residence;
- p. Despite knowing the dangers associated with the use of natural gas, Defendant negligently failed to properly inspect or otherwise monitor the Subject Boiler and Chimney System, the piping and the ventilation system to ensure that the Subject Boiler and Chimney System was completely combusting the fuel and air and that the products of such combustion were properly being ventilated to the exterior of the Subject Residence.
- q. Despite knowing the dangers associated with the use of natural gas, Defendant negligently failed to properly inspect or otherwise monitor the Subject Boiler and Chimney System, its piping and the ventilation system to ensure there was no cumulative buildup of carbon monoxide at the Subject Residence;
- r. Defendant negligently failed to perform and/or ensure that proper inspections and surveys of the Subject Boiler and Chimney System, its piping, the air ducts, ventilation system, vents and/or exhaust system were performed in order to determine that the Subject Boiler and Chimney System operated safely and as not a danger to the Plaintiff;
- s. Defendant negligently failed to perform and/or ensure that proper inspections and surveys of the Subject Boiler and Chimney System, its piping, the air ducts, the ventilation system, the vents and/or exhaust system were performed in order to determine that the ventilation system at the Subject Residence was adequate;
- t. Defendant, in violation of Defendant's own policies and procedures, failed to complete annual inspections of the Subject Residence, including the Subject Boiler and Chimney System, its piping, the air ducts, the ventilation system, the vents and/or exhaust system in order to determine that the ventilation system at the Subject Residence was adequate and in good repair.
- u. While performing maintenance on or otherwise replacing the water heater of the Subject Residence, employees of the Defendant damaged the exhaust ventilation of the Subject Boiler and Chimney System, allowing the products of combustion to poison the Plaintiff.

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27. As a direct and proximate result of the multiple acts of negligence of the Defendant HICKORY HOLLOW, Plaintiff sustained permanent injuries resulting in disability, pain and suffering, physical impairment, mental anguish, inconvenience, and loss of capacity for the enjoyment of life, both in the past and to continue permanently into the remainder of her future.

28. As a direct and proximate result of the multiple acts of negligence of the Defendant HICKORY HOLLOW, Plaintiff has also incurred expenses for medical care and treatment and will continue to incur such expenses in the future; and has suffered a loss of ability to earn money in the future.

WHEREFORE, for the foregoing reasons, Plaintiff, JORDAN, prays for judgment against the Defendant, HICKORY HOLLOW, a Michigan Corporation, for damages, interest, and costs, and further prays for such other and further relief as the Court may deem proper and just.

COUNT II

NEGLIGENCE AGAINST DEFENDANT HUNTINGTON

29. Plaintiff adopts and realleges Paragraphs 1 through 28, as if fully set forth herein, and further alleges as follows:

30. At all times material to this lawsuit, Defendant HUNTINGTON owed a duty to the Plaintiff to use reasonable care to maintain the Subject Boiler and Chimney System so that it would operate safely.

31. Defendant HUNTINGTON, as the management company for the Subject Property, breached its duty of care to maintain the Subject Boiler and Chimney System in safe condition, including in one or more of the following ways:

- a. Defendant negligently failed to properly or adequately maintain the Subject Boiler and Chimney System, its piping and ventilation system, in safe condition, thereby allowing leaks to develop in the Subject Boiler and Chimney System, its piping, ventilation and/or exhaust system;
- b. Defendant negligently failed to confirm that the Subject Boiler and Chimney System was completely combusting the fuel and air;
- c. Defendant negligently failed to equip and/or ensure that the Subject Residence was equipped with operational carbon monoxide sensing devices;
- d. Defendant negligently failed to conduct and/or adequately ensure that regular inspections were conducted of the Subject Boiler and Chimney System, its piping, the ventilation system, air ducts, vents and/or exhaust system related thereto;
- e. Defendant negligently failed to conduct, and/or properly and adequately conduct and/or ensure that regular inspections were conducted of the Subject Boiler and Chimney System, its piping, the ventilation system and/or exhaust system, air conditioning, air ducts, vents and/or exhaust system to check for leaks and/or improper venting;
- f. Defendant negligently failed to make and/or ensure that any reasonable inspection, testing or maintenance measures were conducted relative to the furnace, its piping, air ducts, vents and/or exhaust system to prevent, check for, identify, repair and/or fix any leaks and/or improper venting;
- g. Defendant negligently failed to repair, properly repair and/or require to be repaired dangerous conditions created by the Subject Boiler and Chimney System at the Subject Residence which were or should have been known to Defendant;
- h. Defendant failed to warn Plaintiff of the presence of carbon monoxide, or the potential dangers associated with exposure to carbon monoxide;
- i. Defendant failed to give Plaintiff any notice about the condition of the Subject Boiler and Chimney System, its piping, air ducts, ventilation system, vents and/or exhaust system in or around the Subject Residence and/or that they had not been properly installed, inspected, serviced and/or maintained;
- j. Defendant negligently failed to comply and/or ensure compliance with applicable codes and regulations as to safety measures regarding the proper installation, maintenance, and/or use of the Subject Boiler and

Chimney System, its piping, ventilation system, air ducts, vents and/or exhaust system;

- k. Defendant negligently failed to keep and maintain and/or ensure that the Subject Boiler and Chimney System on the Subject Residence was kept and/or maintained in a reasonably safe condition;
- l. Defendant negligently failed to use and/or ensure that reasonable care was used in maintaining, inspecting and servicing the Subject Boiler and Chimney System, its piping, ventilation system, air ducts, vents and/or exhaust system;
- m. Defendant negligently failed to take and/or ensure that reasonable precautions were taken to protect the Plaintiff from harm;
- n. Defendant negligently failed to provide and/or ensure that adequate protective equipment and/or devices were provided and/or utilized that would prevent injury to the Plaintiff;
- o. Defendant negligently failed to use reasonable care and/or ensure that reasonable care was used in maintaining and providing proper and safe ventilation to the Subject Residence;
- p. Despite knowing the dangers associated with the use of natural gas, Defendant negligently failed to properly inspect or otherwise monitor the Subject Boiler and Chimney System, the piping and the ventilation system to ensure that the Subject Boiler and Chimney System was completely combusting the fuel and air and that the products of such combustion were properly being ventilated to the exterior of the Subject Residence.
- q. Despite knowing the dangers associated with the use of natural gas, Defendant negligently failed to properly inspect or otherwise monitor the Subject Boiler and Chimney System, its piping and the ventilation system to ensure there was no cumulative buildup of carbon monoxide at the Subject Residence;
- r. Defendant negligently failed to perform and/or ensure that proper inspections and surveys of the Subject Boiler and Chimney System, its piping, the air ducts, ventilation system, vents and/or exhaust system were performed in order to determine that the Subject Boiler and Chimney System operated safely and as not a danger to the Plaintiff;
- s. Defendant negligently failed to perform and/or ensure that proper inspections and surveys of the Subject Boiler and Chimney System, its piping, the air ducts, the ventilation system, the vents and/or exhaust

system were performed in order to determine that the ventilation system at the Subject Residence was adequate;

- t. Defendant, in violation of Defendant's own policies and procedures, failed to complete annual inspections of the Subject Residence, including the Subject Boiler and Chimney System, its piping, the air ducts, the ventilation system, the vents and/or exhaust system in order to determine that the ventilation system at the Subject Residence was adequate and in good repair;
- u. While performing maintenance on or otherwise replacing the water heater of the Subject Residence, employees of the Defendant damaged the exhaust ventilation of the Subject Boiler and Chimney System, allowing the products of combustion to poison the Plaintiff.

32. As a direct and proximate result of the multiple acts of negligence of the Defendant HUNTINGTON, Plaintiff sustained permanent injuries resulting in disability, pain and suffering, physical impairment, mental anguish, inconvenience, and loss of capacity for the enjoyment of life, both in the past and to continue permanently into the remainder of her future.

33. As a direct and proximate result of the multiple acts of negligence of the Defendant HUNTINGTON, Plaintiff has also incurred expenses for medical care and treatment and will continue to incur such expenses in the future; and has suffered a loss of ability to earn money in the future.

WHEREFORE, for the foregoing reasons, Plaintiff, JORDAN, prays for judgment against the Defendant, HUNTINGTON, a Michigan limited liability company, for damages, interest, and costs, and further prays for such other and further relief as the Court may deem proper and just.

COUNT III

NEGLIGENCE AGAINST DEFENDANT HUNTINGTON
(FAILURE TO VENTILATE)

34. Plaintiff adopt and reallege Paragraphs 1 through 33, as if fully set forth herein, and further alleges as follows:

35. At all times material to this action, the Defendant HUNTINGTON, as its business and for a profit, managed the Subject Residence. Defendant HUNTINGTON was dependent upon the patronage and commerce of the tenants of the Subject Residence.

36. At all times material to this action, Defendant HUNTINGTON knew or reasonably should have known that a boiler, among other machinery and equipment that used and combusted natural gas, if not properly ventilated, would increase the ratio of carbon monoxide molecules to the remaining ambient air molecules within the living space of the Subject Residence and that such increase, if not adequately ventilated, would foreseeably cause injury and/or damage to invitees and residents of the Subject Residence, including the Plaintiff.

37. At all times material to this action, the Defendant HUNTINGTON owed a duty to the Plaintiff to maintain the Subject Residence free of unreasonably dangerous conditions. This duty includes, but is not to be limited to, the duty to maintain, through proper ventilation, the atmosphere of the Subject Residence within a ratio of carbon monoxide molecules to the remaining ambient air molecules that would have allowed the Plaintiff to breathe that atmosphere safely.

38. At all times material to this action, the Defendant HUNTINGTON breached its duty to the Plaintiff by failing to have adequate ventilation to maintain the ratio of carbon monoxide molecules to the remaining ambient air molecules within its premises such that the Plaintiff would have been able to breathe safely within the Subject Residence.

39. Had the Defendant HUNTINGTON adequately ventilated the air within the Subject Residence such that the ratio of carbon monoxide molecules to the remaining ambient air molecules present in Subject Residence at all times material to this action would have been below a level toxic to humans; the Plaintiff would not have suffered harm. As such, Defendant HUNTINGTON'S failure to provide such ventilation is a breach of its duty to the Plaintiff.

40. As a direct, legal and proximate result of Defendant HUNTINGTON's breach of this duty to the Plaintiff, Plaintiff has suffered harm, has sustained permanent injuries resulting in brain damage, disability, pain and suffering, physical impairment, mental anguish, inconvenience, and loss of capacity for the enjoyment of life, both in the past and to continue permanently into the remainder of her future.

41. As a direct and proximate result of the multiple acts of negligence of the Defendant HUNTINGTON, Plaintiff has also incurred expenses for medical care and treatment and will continue to incur such expenses in the future; and has suffered a loss of ability to earn money in the future.

WHEREFORE, for the foregoing reasons, Plaintiff, JORDAN, prays for judgment against the Defendant, HUNTINGTON, a Michigan limited liability company, for damages, interest, and costs, and further prays for such other and further relief as the Court may deem proper and just.

COUNT IV

NEGLIGENCE AGAINST DEFENDANT HICKORY HOLLOW (FAILURE TO VENTILATE)

42. Plaintiff adopt and reallege Paragraphs 1 through 41, as if fully set forth herein, and further allege as follows:

43. At all times material to this action, the Defendant HICKORY HOLLOW, as its business and for a profit, owned the Subject Residence. Defendant HICKORY HOLLOW was dependent upon the patronage and commerce of the tenants of the Subject Residence

44. At all times material to this action, Defendant HICKORY HOLLOW knew or reasonably should have known that a boiler, among other machinery and equipment that used and combusted natural gas, if not properly ventilated, would increase the ratio of carbon monoxide molecules to the remaining ambient air molecules within the living space of the Subject Residence and that such increase, if not adequately ventilated, would foreseeably cause injury and/or damage to invitees and residents of the Subject Residence, including Plaintiff.

45. At all times material to this action, the Defendant HICKORY HOLLOW owed a duty to the Plaintiff to maintain the Subject Residence free of unreasonably dangerous conditions. This duty includes, but is not to be limited to, the duty to maintain, through proper ventilation, the atmosphere of the Subject Residence within a ratio of carbon monoxide molecules to the remaining ambient air molecules that would have allowed the Plaintiff to breathe that atmosphere safely.

46. At all times material to this action, the Defendant HICKORY HOLLOW breached its duty to the Plaintiff by failing to have adequate ventilation to maintain the ratio of carbon monoxide molecules to the remaining ambient air molecules within its premises such that the Plaintiff would have been able to breathe safely within the Subject Residence.

47. Had the Defendant HICKORY HOLLOW adequately ventilated the air within the Subject Residence such that the ratio of carbon monoxide molecules to the remaining ambient air molecules present in Subject Residence at all times material to this action would have been

below a level toxic to humans; the Plaintiff would not have suffered harm. As such, Defendant HICKORY HOLLOW's failure to provide such ventilation is a breach of its duty to the Plaintiff.

48. As a direct, legal and proximate result of Defendant HICKORY HOLLOW's breach of this duty to the Plaintiff, Plaintiff has suffered harm, has sustained permanent injuries resulting in severe brain damage, disability, pain and suffering, physical impairment, mental anguish, inconvenience, and loss of capacity for the enjoyment of life, both in the past and to continue permanently into the remainder of her future.

49. As a direct and proximate result of the multiple acts of negligence of the Defendant HICKORY HOLLOW, Plaintiff has also incurred expenses for medical care and treatment and will continue to incur such expenses in the future; and has suffered a loss of ability to earn money in the future.

WHEREFORE, for the foregoing reasons, Plaintiff, JORDAN prays for judgment against the Defendant, HICKORY HOLLOW, for damages, interest, and costs, and further prays for such other and further relief as the Court may deem proper and just.

Respectfully Submitted,

MICHIGAN AUTO LAW, P.C.

BY: /S/ Steven M. Gursten

STEVEN M. GURSTEN (P53632)
JOSHUA R. TEREBELO (P72050)
ALEXANDER P. KEMP (P80963)
Attorneys for Plaintiff

BY: /S/ GORDON S. JOHNSON

GORDON S. JOHNSON, JR., (P30454)
Johnson Law Firm
Attorney for Plaintiff

Dated: February 7, 2019

DEMAND FOR JURY TRIAL

NOW COMES the Plaintiff, JORDAN, by and through her attorneys, MICHIGAN AUTO LAW, P.C. and hereby demands a trial by jury in the above-entitled matter.

Respectfully Submitted,

MICHIGAN AUTO LAW, P.C.

BY: /s/ Steven M. Gursten

STEVEN M. GURSTEN (P53632)

JOSHUA R. TEREBELO (P72050)

ALEXANDER P. KEMP (P80963)

Attorney for Plaintiff

BY: /s/ GORDON S. JOHNSON

GORDON S. JOHNSON, JR., (P30454)

Johnson Law Firm

Attorney for Plaintiff

Dated: February 7, 2019